IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1576 of 2005

Between:

Smt. P. Ananthamma, W/o. Sambasiva Rao,
Kudapa Village, Reddigudem Mandal, Krishna District.

..... PETITIONER

AND

1 The Joint Collector, Krishna, Machilipatnam.
2 The Revenue Divisional Officer, Nuzvid, Krishna District.
3 The Mandal Revenue Officer, Reddigudem Mandal, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction preferably writ of mandamus declaring the order of the 2nd respondent vide proceedings No. Rc.A2006/2004, dated 18-12-2004, cancelling the authorization of the petitioner without issuing notice and also action of the 1st respondent in rejecting the stay petition in the Proceedings Rc.B1/SRA/5/2005, dt. 22-01-05 are illegal, arbitrary and violative of principles of natural justice and consequently direct the Respondents to continue the petitioner as F.P. Shop Dealer of Kudapa village, Reddigudem Mandal of Krishna District and pass such other or further orders

Counsel for the Petitioner:MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent Nos.1 to 3: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is a fair price shop dealer of Kudapa Village of Reddigudem Mandal, Krishna District. Through order, dated 18.12.2004, the 2nd respondent cancelled the authorization of the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent along with an application for stay. The grievance of the petitioner is that the 1st respondent has not passed any order so far.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

In the ordinary course, no interim orders are granted in the appeal preferred against the order of cancellation or order of appointing an individual as a dealer. The reason is that the validity or otherwise of such orders needs to be considered at the time of final hearing. However, there are certain exceptions to this. Where the order of cancellation is passed by an authority not vested with the power, or where it is passed without issuing any show cause notice as contemplated under Clause 5(4) of the A.P.State Public Distribution System Control Order, 2001 (for short 'the Control Order'), the interests of the petitioner have to be protected pending such appeal.

In the instant case, the 2nd respondent has undertaken extensive discussion on the basis of spot enquiry said to have been undertaken by him. Even if the same is true, an enquiry has invariably be preceded by a show cause notice under Clause 5(4) of the Control Order. There is no reference to show cause notice. The surprise visit or spot inspection conducted by the 2nd respondent cannot constitute the basis for cancellation of the authorization. *Prima facie*, this course is violative of the mandatory procedure prescribed under Clause 5(4) of the Control Order. Therefore, this Court is of the view that it is a fit case where an interim order needs to be granted in favour of the petitioner.

Hence, the writ petition is disposed of, directing that the order of cancellation, dated 18.12.2004 shall remain stayed, pending disposal of the appeal by the 1st respondent and the petitioner shall be entitled to function as dealer. There shall be no order as to costs.

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08.02.2005

Note: Issue C.C. in three days.

(B/o)

Jsu

To

1 The Joint Collector, Krishna, Machilipatnam.
2 The Revenue Divisional Officer, Nuzvid, Krishna District.
3 The Mandal Revenue Officer, Reddigudem Mandal, Krishna District.

4 Two C.Cs to the G.P. for Civil Supplies, High Court Buildings,

Hyderabad (OUT).

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